The Ombudsman's Review

2009 is a milestone in our history: it marks two decades of ombudsmanship in Hong Kong. This happens to coincide with the end of my ten-year service in this Office.

Over the years, the endeavours of our colleagues have borne fruit. Government departments and public bodies have been inspired to develop a positive complaint culture. They are now generally more responsive to public complaints, more efficient in rendering services and more receptive to suggestions for improvement. Over 95% of our post-investigation recommendations have consistently been accepted for implementation. Some would even initiate improvement measures upon our inquiries. Increasingly, they see our investigation as a quest for facts and our conclusions, statements of fairness and objectivity.

As I bow out, let me share with you some reflections on issues of concern.

Inadequate Cooperation and Coordination

Since 2002, I have repeatedly focused on the compartmental mentality and "minimalistic approach" among some Government departments. The inability, or reluctance, to transcend departmental boundaries and work together in cooperative partnership, or to take the extra step towards better public service, remains apparent still.

Meanwhile, to the public, the Administration is just one government – one single entity from which they expect good governance and quality service overall. This will always be the public expectation and quite rightly so.

Need for Review of Legislation

At times, persistent efforts by departments, whether individually or in unison, are hampered by outdated or ineffectual legislation. Our direct investigation on street management has brought this into sharp focus. As an example, the rampant proliferation of on-street promotional activities is largely due to a lack of legislation against hawking of services.

It is time for the Administration to recognise that changes in many facets of community life signify the need to update policies and

legislation for proper administration. When situations such as on-street promotional activities become intolerable for both the community and the administering departments, it is time to grapple with those systemic issues and forge a way forward for improvement.

Problems with Access to Information

In my last Review, I noted signs among some Government departments of misunderstanding or even ignorance of Government's Code on Access to Information. The Code, introduced in 1995, requires departments to be as open, transparent and accessible with Government-held information as possible to the public. Clearly a commendable directive!

Regrettably, it is now over 13 years since implementation and some departments are still refusing requests for information without due regard to the Code.

We have accordingly initiated a direct investigation into the adequacy and effectiveness of the administration of the Code.

Poor Logistical Planning

I have suggested that the Administration place importance on adequate resources and support for front-line customer services. Examples are telephone enquiry hotlines of departments particularly exposed to public calls for answers or assistance. The community cannot be expected to accept shortfall in resources as a reason, or even excuse, for inefficiency or poor service.

Implications of Outsourcing

For efficiency and cost-effectiveness, Government is increasingly outsourcing services. However, departments remain ultimately accountable for services contracted out. They must be mindful of the need to closely monitor contractors' performance, guiding and supporting as necessary, as well as managing public expectations.

Departments should also guard against indiscriminate or excessive outsourcing. I realise that departments are often in "no-win" situations and that public expectations of improved services are not matched by increase in resources. In such circumstances, outsourcing can provide expedient relief. However, unless managed well and monitored properly, this could lead to loss of expertise and experience within the service itself, thereby affecting the overall quality of administration.

Accountability

I have oft spoken on the concept of accountability. Services can be outsourced and authority may be delegated; but not accountability. This is the hallmark of a responsible and responsive government.

This accords with the fundamental principle underlining the Accountability System for political appointment since 2002 and I quote:

> *"2.2 Principal officials are responsible for their respective portfolios designated to them by the Chief Executive and lead the executive departments within their respective portfolios. Principal officials are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. They are accountable to the Chief Executive for the success or failure of their policies.*
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> *2.6 Politically appointed officials shall be bound by and collectively responsible for the decisions taken by the Chief Executive in Council."*
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> ~ *Code for Officials under the Political Appointment System* ~

Public administration is essentially a cooperative effort with public officers serving the public together from their different posts. However, in the event of a problem or mishap, our community would expect the top officials to bear the political responsibility for the action or inaction within their respective policy portfolios. Such expectations have become particularly acute with the launch of the Accountability System. Nevertheless, many people do not understand the underlying principle of responsibility at different levels as stated in the Code, i.e. "collective responsibility" and the "principal officials accountability". The Administration may well need to explain more fully these principles of accountability and the determination of responsibility.

Jurisdictional Review

The powers of The Ombudsman and, correspondingly, the effectiveness of the Office in monitoring public administration are constrained by some provisions of The Ombudsman Ordinance. Based on our operational experience and on practices overseas, I completed a jurisdictional review and submitted a report in two parts to the Administration in 2006 and 2007.

There, I have re-examined the criteria for including public bodies in The Ombudsman's purview and recommended a few additions. I also revisited the legislative intent for some of the restrictions on investigative powers.

Furthermore, I presented for the Administration's reference the trends for development in ombudsmanship worldwide and the implications on the ombudsman system in Hong Kong.

For more effective operation by future Ombudsmen, I hope that after studying these proposals and observations, the Administration would map out a way forward that would serve our community more comprehensively.

Parting Note

Hong Kong has long had a name for clean and efficient administration. This means clear and reasonable objectives, responsive and responsible administration, fair and open practices under firm yet sympathetic leadership. There have been, and may well continue to be, slips from time to time. In an evolving society under pressure from the challenge of change, this is inevitable; but we should take reference and learn from the mistakes. Given the will and Hong Kong's remarkable resilience, we can do better and discharge ourselves with dignity and integrity.

My time as The Ombudsman has been gratifying. I am immensely grateful to my colleagues and to my Honorary Advisers for their unfailing support; and, of course, to the Administration and prescribed public bodies for cooperation in our inquiries.

Ombudsmanship in Hong Kong has come a long way in the past 20 years. All three ombudsmen have contributed, in different styles, towards the development and enhanced public awareness of the ombudsman system. Through close monitoring by legislators, the media and the public at large, we are constantly reminded that the watchdog is being watched! Their feedback ensures that our findings are in tune with the values of the community.

That I continue to serve as Secretary to the International Ombudsman Institute after my retirement reflects peer recognition of the capability and standing of Hong Kong's ombudsman office in the ombudsman community. I leave the Office with good heart, and in good hands for further development.

Alice Tai
The Ombudsman
31 March 2009